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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,190	09/11/2006	Paul Swenson	21733.PROV.PCT.US	4111
20551 7590 05/12/2008 THORPE NORTH & WESTERN, LLP. P.O. Box 1219 SANDY, UT 84091-1219				
EXAMINER				
COURSON, TANIA C				
ART UNIT		PAPER NUMBER		
2841				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/562,190

Applicant(s)

SWENSON ET AL.

Examiner

TANIA C. COURSON

Art Unit

2841

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 26-49 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 26-49 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 December 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/ISD)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____
- Paper No(s)/Mail Date 22MAR06

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “a binding portion” as stated in line 11 of claim 31, line 12 of claim 46 and line 5 of claim 47, respectively, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

- a) Line 11 of claim 31, line 12 of claim 46 and line 5 of claim 47, respectively, recite the limitation “a binding portion”, although the specification does not make reference to this element.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 26-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Burns (US 4,889,321).

Burns disclose in Figures 1-5, a locking door comprising:

- a) a front door plate having a face surface and a back surface (Fig. 1, covering 80), the back surface having a radius of curvature configured to sit flush against an outer surface of the flag pole (Fig. 1), a rear door plate coupled to the back surface of the front door plate (Fig. 1), the rear door plate having an outer periphery sized to be disposed within the access opening (Fig. 1), a lock housing having a front portion and a rear portion (Fig. 1, locking mechanism 90), the front portion exposed on the face surface of the front plate and having a key holed defined therein (Fig. 1), the back portion protruding from the back surface of the front door plate and a locking extension member having a middle portion coupled to the rear portion of the lock housing and opposite free end portions extending from the middle portion (Fig. 2 and column 3, lines 29-42), the locking extension member being operable to selectively lock and unlock the locking door (Fig. 2 and column 3, lines 29-42);
- b) wherein the front door plate is sized to cover the access opening and the exposed fasteners used to the fasten the holding member to the tube member within the flag pole (Fig. 1);

- c) wherein the rear door plate is contoured to coincide with the contoured back surface of the front plate (Fig. 1);
- d) wherein the locking extension member can be rotated to a locked position by inserting a key into the keyhole located on the outer surface of the locking door and positioning the locking extension member so the free ends are disposed horizontally against the inner surface of the flag pole with an interference fit (Fig. 2 and column 3, lines 29-42);
- e) wherein the locking extension member can be rotated to an unlocked position by inserting a key into the keyhole located on the outer surface of the locking door and positioning the locking extension member so the free ends are disposed vertically preventing interference with the inner surface of the flag pole (Fig. 2 and column 3, lines 29-42).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 31-41 and 43-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis (US 2,377,219) in view of Ensign (US 269,399).

Ellis discloses a flagpole and flag manipulating means (in Figure 3), including the following:

With respect to claims 31, 36-41, 43, 45:

- a) a flagpole (11); a line member (14-15) configured to extend and selectively advance about said flagpole to support a flag (16) in one of several positions on said flagpole (Fig. 3); and a holding member (23) configured to retain said line member (Fig. 3), said holding member having a first portion coupled to a wall of said flagpole (Fig. 3), and a second portion configured to extend outward from said wall (Fig. 3);
- b) wherein said flagpole comprises a tubular configuration defining outer and inner walls (Fig. 3);
- c) wherein said holding member is coupled to said inner wall of said flagpole (Fig. 3);
- d) wherein said flagpole comprises an opening (29) formed therein to access said holding member as coupled to said inner wall (Fig. 3);
- e) further comprising a locking door (29) operable with said opening to selectively control access to said holding member (Fig. 3);
- f) further comprising a weighted mass (25) coupled to said flag to increase the tautness in said line member and a force acting within said line member having a tendency to advance said line member about said flagpole under gravity (Fig. 3);

- g) wherein said weighted mass structure is coupled at a location selected from the group consisting of a midsection of a peripheral side of the flag, an intersection of said peripheral side and a lower side of said flag, an intersection of said peripheral side and an upper side of said flag, and within a hem of said peripheral side of said flag (Fig. 3);
- h) further comprising a plurality of weighted mass structures (25);
- i) wherein said holding member comprises a unitary structure (23).

With respect to claim 46:

- a) a flagpole (11) comprising a tubular configuration having an inner wall (Fig. 3); a line member (14-15) configured to extend and selectively advance through said flagpole to support a flag (16) in one of several positions about said flagpole (Fig. 3); and a holding member (23) configured to retain said line member (Fig. 3), said holding member having a first portion coupled to said inner wall of said flagpole (Fig. 3), and a second portion configured to extend outward from said inner wall (Fig. 3).

With respect to method claim 47:

- a) obtaining a flagpole (11) having a tube configuration (Fig. 3) and that is operable with a line member (14-15) to support a flag (16) on said flagpole (Fig. 3), said flagpole comprising a holding member (23) secured to an inner wall thereof (Fig. 3).

Ellis does not disclose the following

- a) a second portion having a wedge-shaped aperture formed therein that comprises a pass-through portion configured to receive a line member and to permit passage therethrough, and a binding portion configured to removably bind said line member and to prevent the advancement thereof through said holding member using a force-fit;
- b) wherein said wedge-shaped aperture comprises opposing structural members configured to taper and converge as said second portion extends from said wall to provide said binding portion, said wedge-shaped aperture providing variable binding portions depending upon a size of said line member;
- c) wherein said second portion of said holding member comprises an inclined configuration with respect to said inner wall, such that said second portion extends outward and upward from said first portion and said inner wall to urge said line member into said binding portion of said wedge-shaped aperture, and to increase said force-fit;
- d) wherein said inclined configuration is configured to automatically cause said line member to be drawn into said binding portion in the event said line member is inadvertently caused to advance without user assistance;
- e) wherein said holding member is configured to provide selective repositioning of said line member by releasing said line member from said binding portion, advancing said line member through said pass-through portion of said aperture

a desired distance, and again causing said line member to be drawn into said binding portion;

- f) wherein said line member has a positionable obstruction member coupled near a terminal end to prevent said line member from passing completely through said aperture of the holding member.
- g) said second portion having an aperture formed therein that comprises a pass-through portion configured to receive said line member and to permit passage therethrough, said aperture also comprising a binding portion configured to bind said line member and to prevent the advance thereof through said holding member using a force-fit;
- h) a holding member having an aperture formed therein; and causing said line member to be drawn into a binding portion of said aperture, said binding portion being configured to bind said line member using a force-fit to prevent the advance of said line member through said aperture and said holding member, and to therefore retain said line member and said flag in a desired position;
- i) further comprising releasing said line member from said binding portion to advance said line member through said holding member;
- j) advancing said line member through said aperture a desired distance to reposition said line member; and causing said line member to again be drawn into said binding portion.

Ensign teaches a cleat device and associated method that consists of the following:

- a) a second portion (D) having a wedge-shaped aperture formed therein that comprises a pass-through portion configured to receive a line member and to permit passage therethrough (Fig. 1), and a binding portion (D) configured to removably bind said line member and to prevent the advancement thereof through said holding member using a force-fit (Fig. 1);
- b) wherein said wedge-shaped aperture comprises opposing structural members configured to taper and converge as said second portion extends from said wall to provide said binding portion (Fig. 1), said wedge-shaped aperture providing variable binding portions depending upon a size of said line member (Fig. 1);
- c) wherein said second portion of said holding member comprises an inclined configuration with respect to said inner wall (Fig. 2), such that said second portion extends outward and upward from said first portion and said inner wall to urge said line member into said binding portion of said wedge-shaped aperture, and to increase said force-fit (Fig. 2);
- d) wherein said inclined configuration is configured to automatically cause said line member to be drawn into said binding portion in the event said line member is inadvertently caused to advance without user assistance (Fig. 1);
- e) wherein said holding member is configured to provide selective repositioning of said line member by releasing said line member from said binding portion, advancing said line member through said pass-through portion of said aperture

- a desired distance, and again causing said line member to be drawn into said binding portion (Fig. 1);
- f) wherein said line member has a positionable obstruction member (D) coupled near a terminal end to prevent said line member from passing completely through said aperture of the holding member (Fig. 1).
 - g) said second portion having an aperture formed therein that comprises a pass-through portion configured to receive said line member and to permit passage therethrough (D), said aperture also comprising a binding portion (D) configured to bind said line member and to prevent the advance thereof through said holding member using a force-fit (Fig. 1);
 - h) a holding member (Fig. 1) having an aperture formed therein (A); and causing said line member to be drawn into a binding portion of said aperture (D), said binding portion being configured to bind said line member using a force-fit to prevent the advance of said line member through said aperture and said holding member, and to therefore retain said line member and said flag in a desired position (Fig. 1);
 - i) further comprising releasing said line member from said binding portion to advance said line member through said holding member (Fig. 1);
 - j) advancing said line member through said aperture a desired distance to reposition said line member; and causing said line member to again be drawn into said binding portion (Fig. 1).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the holding member of Ellis, so as to replace Ellis' holding member with the holding member, as taught by Ensign, because both are well known alternate types of holding members which will perform the same function, if one is replaced with the other, of fastening or loosening lines or ropes instantly.

7. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis and Ensign, as applied to claims 31-41 and 43-49 as stated above, and further in view of Taharaya (JP 2001224602).

Ellis and Ensign disclose a flagpole and flag manipulating means as stated above in paragraph 6.

They do not disclose the following:

- a) a weighted mass structure comprises first and second magnetic structures configured for placement on opposing sides of a flag.

Taharaya teaches a flag having a magnetic weight that contains a weighted mass structure comprises first and second magnetic structures (9-10) configured for placement on opposing sides of a flag (Fig. 8). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the flagpole and flag manipulating means of Ellis and Ensign, so as to include weighted magnetic structures, as taught by Taharaya, in order to prevent the flag from soaring up.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art cited on PTO-892 and not mentioned above disclose a flag device:

Yeung (US 5,671,509)

Knecht (US 5,113,776)

Klein (US 4,281,439)

Wallin et al. (US 3,398,714)

Bierk (US 2,296,082)

Walton (US 1,631,567)

Allen (US 1,528,747)

Brundell (US 876,770)

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania C. Courson whose telephone number is (571) 272-2239.

The examiner can normally be reached on Monday-Friday from 7:30AM to 4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard, can be reached on (571) 272-1984.

The fax number for this Organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. A. Smith/
Primary Examiner, Art Unit 2841

TCC
May 12, 2008